

REMARKS

The Examiner has rejected claims 1-11 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,764,619 to Nishiuchi et al.

The Nishiuchi et al. patent discloses an optical recording medium having two separate recording layers.

Applicants submit that Nishiuchi et al. neither discloses nor suggests the first recording stack  $L_0$  having a recordable type  $L_0$  recording layer comprising a dye, in which the first  $L_0$  guide groove has a depth  $G_{L0} < 100$  nm.

A recordable medium comprising a dye recording layer is essentially different from a rewritable medium comprising phase change recording layers. See, e.g., page 2, lines 24-34 of the specification as filed, where it is described that typically a recording medium including a dye recording layer has groove depths much larger than 100 nm, e.g., about 200 nm. This is because the dye recording layer typically is much thicker than a phase change type recording layer which has several implications for the optical stack design. The medium claimed in claim 1 is a so-called inverted  $L_0$  stack design. From a dual-stack medium production point of view, an inverted  $L_0$  stack structure is preferred which means that the recording layer of the  $L_0$  stack is present at a side of the reflective layer other than the side of the substrate with groove structure (see page 3, lines 6-9 of the specification as filed).

According to the invention, the first L<sub>0</sub> guide groove has a depth GL<sub>0</sub> < 100 nm. For a dye medium this is not at all conventional see, e.g., EP1067535A2 as mentioned on page 2, line 24 of the specification as filed.

Applicants submit that a person skilled in the art starting from Nishiuchi et al. and confronted with the problem of how to achieve a recordable dual stack medium which has a reflection value of the L<sub>0</sub> recording stack higher than 25%, preferably higher than 50%, at a radiation beam wavelength of approximately 655 nm, would not have an incentive to apply a dye L<sub>0</sub> recording stack of the inverted type because Nishiuchi et al. does not mention such a dye L<sub>0</sub> recording stack of the inverted type.

In the current Office Action, the Examiner states "Examiner agrees on the premise that recording medium comprising a dye recording layer is different from a rewritable medium comprising phase change recording layer. However, the Nishiuchi reference used in the prior office action teaches three different methods including dye recording layer and phase change recording that could be employed to form the recording layer. Please see col 14 lines 37-67."

Applicants acknowledge that Nishiuchi discloses that a dye layer or a phase change layer may be used for the recording layer. However, the only disclosed embodiment in Nishiuchi that substantially meets the limitations of, for example, claim 1, is Example 5 at col. 46, lines 22-31, which utilizes a phase change

recording layer, not a dye recording layer. There is no disclosure in Nishiuchi that a dye recording layer could be substituted for the phase change recording layer while retaining the groove depth (50 nm). In fact, as Applicants had noted above, the prior art, notably EP1067535, specifically indicates a groove depth, when using a dye recording layer, of approximately 194 nm.

Applicants submit that there is nothing in Nishiuchi that would lead one to expect satisfactory performance of a dye recording layer when the groove depth is less than 100 nm, as set forth in claim 1.

In view of the above, Applicants believe that the subject invention, as claimed, is neither anticipated nor rendered obvious by the prior art, and as such, is patentable thereover.

Applicants believe that this application, containing claims 1-11, is now in condition for allowance and such action is respectfully requested.

Respectfully submitted,

by /Edward W. Goodman/  
Edward W. Goodman, Reg. 28,613  
Attorney  
Tel.: 914-333-9611